

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, *
Plaintiff, *
*
vs. * CRIMINAL NO. 22-6 (ADC) (GLS)
*
ALBERTO J. NUNEZ-GOMEZ, *
Defendant. *

MOTION IN COMPLIANCE
(Re: Defendant's Eligibility under Criminal Justice Act)

I. Introduction.

The United States moved to review defendant Alberto J. Núñez-Gómez (“defendant Núñez) financial eligibility to be represented by the Federal Public Defender under the Criminal Justice Act. 18 U. S. C. § 3006A. Docket No. 4. The Court ordered for defendant to respond. Docket no. 7.

II. Relief Requested.

Defendant Núñez moves the Court to note his response, and to stay arraignment and detention hearing set for February 17, 2022. *Id.*

III. Basis for Relief.

In support of their request for review of defendant Núñez eligibility the government relies on defendant’s presentence investigation report (“PSR”) from 2019 in criminal number 18-490 (PAD). Docket no. 44, at 17-19. Defendant is facing a violation proceeding in 18-490 (PAD) where alleged defendant committed new criminal conduct. For this alleged criminal conduct, defendant Núñez now stands indicted here.

Per defendant’s request in 18-490 (PAD), the violation proceeding was continued sine die pending resolution of his new criminal case here - defendant Núñez remains detained without bail. There, the government also moved for the Court’s determination of defendant’s eligibility under

the CJA. Defendant today filed a restricted motion in 18-490 (PAD), moving the court to dispose of defendant's eligibility to be represented by CJA Counsel.

From reading the PSR in 18-490 (PAD) it appears the United States Probation Office ("USPO") only relied on defendant's statements. USPO requested an account statement verification from UBS Financial, who apparently managed defendant Núñez' portfolio then. That statement was not made part of the record, and we do not know if UBS Financial produced the statement requested by USPO. The undersigned attorney does not know if this investment still exists, or available for defendant to manage.

We did find that defendant Núñez holds an annuity policy through an Insurance Company with an apparent monthly return of \$750.00. At face value, it appears defendant does not have the financial capacity to retain an attorney unless he were to be granted access to the principal amount, or allowed to withdraw a percentage of the principal, assuming no penalty assessment.

IV. Prayer.

Defendant Núñez moves the Court to note the content of this motion, stay the arraignment and bail hearing, until defendant's eligibility is clarified, and issue any remedy it deems proper, including holding a hearing on defendant's CJA eligibility.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 11th day of February 2022.

I HEREBY CERTIFY that a copy of the foregoing motion was served on counsel for the government, U. S. Attorney W. Stephen Muldrow (att.: Assistant U. S. Attorney Linet Suárez)) through CM/ECF.

**ERIC A. VOS
Chief Defender
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